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| CLERK US DISTRICT COURT DISTRICT OF NEVADA | |
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9 **UNITED STATES DISTRICT COURT**

10 **DISTRICT OF NEVADA**

ORDER

11 RICHARD R. GATES,

12 Plaintiff,

13 vs.

14 R. LEGRAND et al.,

15 Defendants.

Case No. 3:16-cv-00321-MMD-VPC

**DEFENDANT'S MOTION FOR EXTENSION OF
TIME TO FILE REPLY IN SUPPORT OF
RENEWED MOTION FOR SUMMARY
JUDGMENT
(FIRST REQUEST)**

16 Defendant Sheryl Foster by and through counsel, Adam Paul Laxalt, Attorney General of the
17 State of Nevada, and Joshua M. Halen, Deputy Attorney General, moves for an enlargement of time to
18 file a Responsive Pleading. This Motion is based on the following Memorandum of Points and Authorities
19 and all papers and pleadings on file in this case.

20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 **I. LAW AND ARGUMENT**

22 This is an inmate civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff Richard R.
23 Gates (Plaintiff) is an inmate in the custody of the Nevada Department of Corrections (NDOC). The
24 Court screened Plaintiff's Complaint and allowed him to proceed with three Counts pursuant to the
25 First and Fourteenth Amendments to the U.S. Constitution. (ECF No. 7.)

26 On May 22, 2018, the Court entered its Order regarding Plaintiff's application to proceed in
27 forma pauperis and setting service deadlines. (ECF No. 12.) The Court ordered that if the Attorney
28 General's Office accepted service for any Defendants, a responsive pleading would be due within sixty-

1 days of the Court's Order. (*Id.*) The Attorney General's Office accepted service on behalf of Defendant
2 Foster. (ECF No. 13.) Accordingly, a responsive pleading is due by Defendants by July 23, 2018.

3 Counsel for Defendant has been preparing a responsive pleading in the form of a motion for
4 summary judgment. However, counsel needs a short extension of time to finalize the motion and the
5 requisite declarations and exhibits. Defendants therefore respectfully request a twenty-one day extension to
6 the responsive pleading deadline in order to afford Defendant adequate time to complete a responsive
7 pleading.

8 Federal Rule of Civil Procedure 6(b)(1) governs enlargements of time and provides as follows:

9 When an act may or must be done within a specified time, the court may,
10 for good cause, extend the time: (A) with or without motion or notice if
11 the court acts, or if a request is made, before the original time or its
extension expires; or (B) on motion made after the time has expired if the
party failed to act because of excusable neglect.

12 The proper procedure, when additional time for any purpose is needed, is to present a request for
13 extension of time before the time fixed has expired. *Canup v. Miss. Val. Barge Line Co.*, 31 F.R.D. 282
14 (W.D. Pa. 1962). Extensions of time may always be asked for, and usually are granted on a showing of
15 good cause if timely made under subdivision (b)(1) of the Rule. *Creedon v. Taubman*, 8 F.R.D. 268 (N.D.
16 Ohio 1947).

17 Defendant seeks an enlargement of time to file a responsive pleading. Good cause exists to extend
18 the time to file this motion. The extension of time is needed to finalize the motion for summary judgment
19 and the attached declarations and exhibits. Defendant's counsel has had a recent increase in cases due to
20 staff changes at the Nevada Attorney General's Office. Defendant's counsel has been preparing responsive
21 pleadings in multiple cases as well as complying with other deadlines in cases. Defendant's counsel had a
22 responsive pleading due on July 20, 2018, in *Almy v. Dzurenda, et al.*, Case No. 3:17-cv-00045-MMD-
23 WGC. Counsel also has a responsive pleading due on Monday, July 23, 2018, in *Gates v. LeGrand, et al.*,
24 Case No. 3:16-cv-00401-MMD-VPC. Defendant's counsel also has an upcoming Early Mediation
25 Conference Statement due in *Lewis v. Gentry, et al.*, Case No. 3:17-cv-00191-MMD-WGC on Tuesday,
26 July 24, 2018. Defendant's counsel is also responding to various miscellaneous motions in numerous other
27 cases. Accordingly, Defendants' counsel has been attempting to comply with upcoming deadlines in other
28 cases and attempting to finalize the responsive pleading in this case, as well as motions in cases already

1 assigned. This short extension of time is requested in order to allow counsel to adequately comply with all
2 deadlines. Plaintiff will not be prejudiced by a small enlargement of time. This request is made in good
3 faith and is not for the purposes of delay. Defendant requests an extension of twenty-one days to file a
4 responsive pleading in the form of a motion for summary judgment.


5 **II. CONCLUSION**

6 Based on the foregoing, Defendant respectfully requests this motion for enlargement of time be
7 granted and the deadline for filing a responsive pleading be extended twenty-one (21) days, up to and
8 including August 13, 2018.

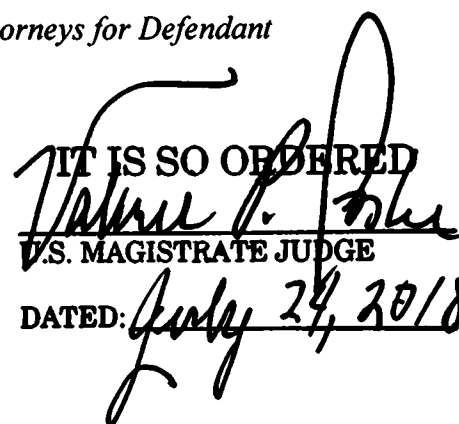
9 DATED this 23rd day of July, 2018.

10 ADAM PAUL LAXALT
11 Attorney General

12 By:

13 
JOSHUA M. HALEN
Deputy Attorney General
State of Nevada
Bureau of Litigation
Public Safety Division

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15 *Attorneys for Defendant*

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18 IT IS SO ORDERED
19 
U.S. MAGISTRATE JUDGE

20 DATED: July 24, 2018
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